

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

ZEROHOLDING, LLC

DEBTOR.

CHAPTER 11 (SUBCHAPTER V)

CASE NO. 22-56502-JWC

**DEBTOR'S MOTION REQUESTING ENTRY OF ORDER
ESTABLISHING CERTAIN DEADLINES PURSUANT TO INTERIM RULE 3017.2**

COMES NOW, Zeroholding, LLC (the “**Debtor**”) by and through the undersigned counsel, and hereby files this Motion Requesting Entry of Order Establishing Certain Deadlines Pursuant to Interim Rule 3017.2 (the “**Motion**”). The Debtor respectfully requests an order: (1) scheduling a confirmation hearing on the Plan, as may be amended, (2) approving the form and content of Debtor’s ballot, (3) establishing a deadline for filing objections to the Plan, and (4) establishing a deadline for casting ballots to accept or reject the Plan. In support of the Motion, the Debtor respectfully shows the Court as follows:

Jurisdiction

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. The subject matter of this Motion constitutes a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory basis for the relief requested is 11 U.S.C. §§ 1191 and 105.

2. The Debtor filed a voluntary petition for relief under Chapter 11, Subchapter V of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “**Court**”) on August 19, 2022 (the “**Petition Date**”).

2. Since the Petition Date, the Debtor has continued in possession of its property and has operated and managed its affairs as a debtor-in-possession pursuant to the provisions of Section 1184 of the Bankruptcy Code.

3. John T. Whaley was appointed as the Subchapter V Trustee in this case.

4. On November 17, 2022, the Debtor filed its Chapter 11 Plan of Reorganization [Doc. 70], which was subsequently amended on March 8, 2023 [Doc. 124].

5. On March 21, 2023, the Debtor filed the Second Chapter 11 Plan of Reorganization [Doc. 129] (the “**Plan**”), confirmation of which the Debtor now seeks to set for hearing.

Relief Requested

6. By this Motion, the Debtor requests entry of an order: (a) scheduling a confirmation hearing on the Plan, as may be amended, (b) approving the form and content of Debtor’s ballot, (c) establishing a deadline for filing objections to the Plan, and (d) establishing a deadline for casting ballots to accept or reject the Plan.

7. Interim Rule 3017.2 states:

In a case under subchapter V of chapter 11 in which § 1125 does not apply, the court shall:

- (a) Fix a time within which the holders of claims and interests may accept or reject the plan;
- (b) Fix a date on which an equity security holder or creditor whose claim is based on a security must be the holder of record of the security in order to be eligible to accept or reject the plan;
- (c) Fix a date for the hearing on confirmation; and
- (d) Fix a date for transmission of the plan, notice of the time within which the holders of claims and interest may accept or reject the plan, and notice of the date for the hearing on confirmation.

8. The Debtor’s case was filed as a Subchapter V case. The Court has not entered an order applying § 1125 to this case. See § 1181(b) (“Unless the court for cause orders otherwise . . . §1125 [does] not apply in a case under this subchapter.”).

9. The Plan was timely filed pursuant § 1189 and is in accordance with Rule 3016 of the Federal Rules of Bankruptcy Procedure (the “**Rules**”).

10. The Debtor requests that the Court enter an order setting forth the following deadlines:

- | | | |
|-----|---|---------------------------|
| (a) | Deadline for the Debtor to transmit the Plan and notice of deadline for voting on plan and confirmation hearing | March 27, 2023 |
| (b) | Deadline for equity security holders or creditors to be holders of record in order to vote on the Plan | April 25, 2023 |
| (c) | Deadline to vote to accept or reject the Plan | April 25, 2023 |
| (d) | Deadline to file objections to confirmation of the Plan | April 25, 2023 |
| (d) | Hearing on confirmation | May 4, 2023 at 11:00 a.m. |

11. The Debtor further requests that the Court approve the form and content of the Ballot attached hereto and incorporated herein as **Exhibit “A”**. Ballots will be provided to creditors and parties in interest entitled to vote along with the Plan.

12. An order granting this Motion and the relief requested herein will be submitted contemporaneously herewith.

WHEREFORE, the Debtor requests that the Court enter an order granting this Motion and the relief requested herein and such other and further relief as may be deemed just and proper.

[Signature of counsel on following page]

Dated: March 21, 2023

Respectfully submitted,

ROUNTREE LEITMAN KLEIN & GEER, LLC

/s/ Caitlyn Powers

Will B. Geer, Ga. Bar No. 940943

Caitlyn Powers, Ga. Bar No. 856354

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Attorneys for the Debtor

EXHIBIT “A”

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BALLOT FOR ACCEPTING OR REJECTING DEBTOR'S PLAN

On March 21, 2023, the Debtor filed its Second Subchapter V Chapter 11 Plan of Reorganization [Doc. 129] (the “**Plan**”). On March 21, 2023, the Debtor filed a Motion Requesting Entry of Order Establishing Certain Deadlines Pursuant to Interim Rule 3017.2 (the “**Motion**”). The Court has approved the deadlines set forth herein. If you do not have a copy of the Plan, you may obtain a copy from Rountree Leitman Klein & Geer, LLC Century Plaza I, 2987 Clairmont Road, Suite 350, Atlanta, Georgia, 30329, 404-584-1238 (telephone), wgeer@rlkglaw.com (email). The Plan is available for review in the **Office of the Clerk, at the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, 13th Floor, Room 1340, Atlanta, GA 30303**, during normal business hours or online at <http://ecf.ganb.uscourts.gov> (registered users) or at <http://pacer.psc.uscourts.gov> (unregistered users).

You should review the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. If you hold claims or equity interests in more than one class, you may receive a ballot for each class in which you are entitled to vote and you may use a copy of the ballot or request an additional ballot if you do not receive one.

If your ballot is not received by the Office of the Clerk, United States Bankruptcy Court, at the Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, 13th Floor, Room 1340, Atlanta, GA 30303 *on or before April 25, 2023* and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan.

If the Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote.

The Plan referred to in this ballot can be confirmed and thereby made binding on you if it is accepted by the holders of two-thirds in amount and more than one-half in number of claims in each Class. If the required acceptances are not obtained, the Plan may nevertheless be confirmed if the Court finds that the Plan accords fair and equitable treatment to the Class or Classes rejecting it or the Plan otherwise satisfies the requirements of Section 1191(b) of the Code.

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**TO HAVE YOUR VOTE COUNT, YOU MUST COMPLETE AND RETURN THIS
BALLOT ON OR BEFORE April 25, 2023 TO:**

**United States Bankruptcy Court
Richard B. Russell Federal Building
and United States Courthouse
75 Ted Turner Drive, SW
13th Floor, Room 1340
Atlanta, GA 30303**

You must also deliver a copy of the completed, signed ballot to Debtor's Attorney at: Rountree Leitman Klein & Geer, LLC Century Plaza I, 2987 Clairmont Road, Suite 350, Atlanta, Georgia, 30329, Attn: Will B. Geer.

The undersigned is a holder of [check one:]

☐ a secured claim
☐ an unsecured claim
☐ other [specify:_____]

In the amount of \$_____, in Class_____and hereby:

☐ **Accepts** ☐ **Rejects**
Debtor's Plan of Reorganization

Date: _____

Creditor: _____

Email Address of signing representative: _____

Signed: _____

[If appropriate] as: _____

Print Name: _____

Address: _____

Phone Number: _____

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CERTIFICATE OF SERVICE

This is to certify that on this day the foregoing Motion Requesting Entry of Order Establishing Certain Deadlines Pursuant to Interim Rule 3017.2 (“Motion”) was electronically filed using the Bankruptcy Court’s Electronic Case Filing program which sends a notice of and accompanying link to the Motion to the following parties who have appeared in this case under the Bankruptcy Court’s Electronic Case Filing program:

- **Nathaniel DeLoatch** nathanieldeloatch@eversheds-sutherland.us
- **Taylor L. Dove** tdove@huntermaclean.com, aharris@huntermaclean.com; lpadgett@huntermaclean.com
- **Alan C. Hochheiser** ahochheiser@mauricewutscher.com, arodriguez@mauricewutscher.com
- **Lindsay P. S. Kolba** lindsay.p.kolba@usdoj.gov
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- **John G. McCullough** jmccullough@aldridgepate.com
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- **John T. Whaley (Sub V Trustee)** trustee@jtwcpa.net, jtwahaley@jtwcpa.net
- **Stuart Freeman Wilson-Patton** agbankgeorgia@ag.tn.gov, Stuart.Wilson-Patton@ag.tn.gov

[Signature of counsel on following page]

Dated: March 21, 2023

ROUNTREE LEITMAN KLEIN & GEER, LLC

/s/ Caitlyn Powers

Will B. Geer, Ga. Bar No. 940943

Caitlyn Powers, Ga. Bar No. 856354

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